



# Report to Planning & Zoning Commission

Clay County, Missouri

**Case Number** March 15-105RZ/P  
**Case Type** Rezoning & Preliminary Plat  
**Project Name** Williams Creek

**Applicant** Fred Dehn, representing Precision Repair Systems  
16516 N. 69 Highway  
Excelsior Springs, MO 64024

**Owners** Fred Dehn, representing Precision Repair Systems  
(*Proposed Lots 1 and 2 Williams Creek*)  
16516 N. 69 Highway  
Excelsior Springs, MO 64024

Alfred G. Rager  
(*Proposed Lot 3 Williams Creek*)  
28815 NE 166<sup>th</sup> St.  
Excelsior Springs, MO 64024

**Request** **Rezoning & Preliminary Plat** approval of Williams Creek

Application Submittal 2015-02-03

Public Notice Published 2015-02-12

Neighbor Letters Sent 2015-02-11

Report Date 2015-02-25

**REPORT AUTHOR(S)** Debbie Viviano, Planner  
Matt Tapp, Director

**Recommendation** APPROVAL with conditions



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## General Information

- Site Location:** Approx. 16516 N 69 Hwy  
Section 23 | Township 53 | Range 30
- Site Size:** 23.95± Acres
- Existing Landuse & Zoning:** Agricultural (AG) District / Suburban Residential (R-1A) District / Limited Industrial (I-1) District
- Zoning/Platting History:** Rezoning to I-1, Zoning Order, Page 491, 11/22/1973; Stone Ridge, recorded 7/23/1993; Stone Ridge, Replat of Lot 3, recorded 2/1/2000.
- Surrounding Landuse & Zoning:**
- North - Community Commercial (C-2) District, Agricultural (AG) Zoned land
  - East - Sachs Addition (R-1A), Beason Meadows (AG/R-1), Agricultural (AG) Zoned Land
  - South - Stone Ridge Replat Lot 3 (R-1A), Agricultural (AG) Zoned Land, Williams Est. Replat of Lot 1 (R-1A), City of Excelsior Springs (*Approx. ½ mile*)
  - West - Community Commercial (C-2) District-(NW Electric Substation), Germann's Minor (AG), Rogers Ridge and Davenport Acres (R-1A)

## Current Conditions:



Courtesy Clay County Assessor GIS/Mapping



Courtesy Microsoft® Bing™



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## Assessment

Fred Dehn, representing Precision Repair Systems and Alfred Rager are requesting **Rezoning** approval from Agricultural (AG) Residential Ranchette (R-5) District for ONLY Lot 3 (9.17 acres), Suburban Residential District (R-1A) to Residential Rural District (R-1) for ONLY Lot 1 (11.20 acres) and Agricultural (AG) and Suburban Residential District (R-1A) to Limited Industrial (I-1) District for ONLY Lot 2 (3.50 acres) and **Preliminary Plat** approval for Williams Creek a total area of approximately 23.95± acres at 16516 N. 69 Highway.

Mr. Dehn is pursuing these requests to bring all properties into compliance with the 2011 Clay County Land Development Code (LDC) so as to allow for the construction of a new building towards the south end of proposed Lot 2.

## 2008 Comprehensive Plan Considerations

The Comprehensive Plan ("Plan") indicates that the subject property is located in the RURAL LOW DENSITY TIER, as well as the 1-Mile Urban Coordination Sub-Tier and the Highway Corridor Overlay District (92 Highway).

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1<sup>st</sup>) table shows the land use tiers and corresponding guidelines, and the second (2<sup>nd</sup>) explains the exceptions to the 20-acre minimum lot size policy as directed by the Plan.

| Table 4.2 - Land Use Planning Tiers - Presented on the Planning Tier Map |   |   |  |
|--|---|---|--|
|  | Natural Resources Tier*<br>(Yellow)   | Rural Low-Density Tier*<br>(Green)  | Urban Services Tier*<br>(Salmon)   |
| Intent   | Support continued agricultural uses in areas beyond near- and long-term urban service extensions.   | To accommodate low density rural uses in areas located beyond anticipated city annexation areas.  | To promote urban development compatible with the long range growth plans of adjoining cities.  |
| Primary Uses   | Agricultural-related uses, natural resources  | Agricultural crop lands, livestock grazing, woodlands, grasslands, rural residences   | Urban density residential and non-residential  |
| Residential Uses   | Rural Density:<br>1 dwelling unit per 20+ acres.  | Rural Density; Rural Residential Density; low-density rural residential development: 1-dwelling unit per 20+ acres, or 1-farmstead dwelling on 5+ acres; Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre. | Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre.<br>Urban Density: development on municipal-level services: greater than 4-units per acre.<br><br>20-acre minimum for agricultural and rural residential uses until such time as urban development occurs. |
| Non-Residential Uses   | Farm service related, recreation  | Farm service related, recreation  | Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.   |
| Minimum Sanitary Sewer Provisions  | On-site septic, Community Wastewater Facility if indicated by LESA guidance.  | On-site septic, Community Wastewater Facility if indicated by LESA guidance.  | Municipal Wastewater Treatment Plant connection for Suburban Density or greater. <sup>(1)</sup>  |
| Zoning Districts   | Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots). | Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).  | Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots).<br><br>AG, Agricultural zoning is appropriate until full range of urban services available.  |

<sup>(1)</sup> On-site septic allowed for agricultural uses only.

\* The **Planning Tier Map** notes a special designation of areas within one mile of each city: "1-Mile Urban Coordination Sub-Tier" where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non binding city recommendation for Clay County to consider in their deliberations.



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| Table 4.3 – Option B for Land Use Tier Implementation: Transition Policy Procedures   |  |  |   |
|---|--|--|---|
|   | Natural Resources Tier*<br>(Yellow)  | Rural Low-Density Tier<br>(Green)  | Urban Services Tier<br>(Salmon)   |
| Intent  | Exceptions from 20-acre minimum lot size in Ag-districts / phasing in of new regulations   |  |   |
| Density<br>Exceptions for<br>Legal Lots of<br>Record as of<br>the date of<br>Revision of the<br>Land<br>Development<br>Code | Subdivision of land to 5+acre lots, provided that 50% of the subdivided parcel is preserved, such as in an agriculture deed restriction. | Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved. | Subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed. |
| Other<br>Exceptions   | Farmstead** dwellings allowed on 5+acre parcels.   |  | City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.                                   |

\* The Natural Resources Tier includes an "Urban Services Transition Sub-Tier" area along I-92 and C-Highways that extends where urban development is influenced by the urban highway; yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

\*\* A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

The City of Excelsior Springs is within the 1-Mile Urban Coordination Sub-Tier. The City responded with an email on January 29, 2015 and their response was that *"his proposed use would be consistent with our zoning."* Therefore the subject request meets the spirit and jest of the 2008 Comprehensive Plan due to the City's favorable response. It is also located on trail #C-13, a third priority bike trail identified by the Northland Trails Vision Plan ("NTVP"). The Clay County Parks Department responded they do not desire the 15' Recreational Easement ("R/E") inside the standard 30' Utility Easement (UE) along the frontage of US 69 Highway.

## **Character of the General Neighborhood**

Agriculturally (AG) zoned property is in each direction of the property. C-2 zoned land is to the north and west (NW Electric substation). R-1 & R-1A zoned land are to the east and south. The City of Excelsior Springs is to the south and within the 1-mile coordination tier [See Attachment B].

## **LDC Considerations**

The rezoning application was properly noticed in the Kearney Courier on February 12, 2015. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter dated mailed on February 11, 2015.

The Board of Zoning Adjustment (BZA) approved the following three non-use variances on February 24, 2015:

- A maximum 5.65-foot front/street side setback variance from Section 151-4.14 (C) to allow the structures to remain as established on the property.
- A maximum 4.10-foot interior side setback variance from Section 151-4.14 (C) to allow the structure to remain as established on the property.
- A maximum 24.05-foot rear side setback variance from Section 151-4.14(C) to allow the structures to remain as established on the property.

The petitioner should fully address the five (5) rezoning criteria in the Land Development Code (LDC) which requires the following standards be met with a rezoning application (*Section 151-3.3 F*):

1. Whether or not the proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition in the area;
2. Whether or not the proposed amendment is consistent with the *Comprehensive Plan* and the stated purpose and intent of Sec. 151-1.7;



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3. Whether or not the proposed zoning district as a whole allows development that is compatible with existing uses and zoning of nearby property;
4. Whether or not the county and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development; and
5. Whether or not the proposed amendment would result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, storm water management, and natural resources.

The LDC also provides certain zoning district standards for an I-1 district within Section 151-4.14, which are referenced below and specific to this request. Noted in *italics* is the County staff response to the standard.

1. All manufacturing and repair activities shall be conducted within an enclosed building.
2. Outdoor storage areas that are visible from public rights-of-way or residential zoning districts shall be screened from view of such rights-of-way or zoning districts by buildings, solid, opaque fences or walls or by dense vegetative plantings that effectively block views of the material being stored. The height of the building, fence, wall or vegetation shall be at least as tall as the material being screened.
3. Direct access to and frontage on at least one arterial or minor arterial street shall be required.
4. All uses shall be operated so as to comply with the following performance standards:
  - a. All uses shall be so operated as to comply with all applicable state and federal standards governing radiation, smoke, dust, particulate matter, toxic or noxious waste materials.
  - b. No use shall be operated so as to produce ground vibration, noticeable without instruments, at the lot line of the premises on which the use is located.
  - c. No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception in any residential or commercial district.
  - d. Each use shall be operated so as to minimize the danger from fire and explosion and to comply with the regulations contained in the County Code.
  - e. Any activity producing humidity in the form of steam or moist air, or producing heat or glare, shall be carried on in such a manner that steam, humidity, heat or glare is not perceptible at any lot line.

### **Outside Agency Review**

The Missouri Department of Transportation (MoDOT) replied in an email with this response:

"...as long as the access does not change our department has no problem with the rezoning. The existing access for both commercial and non-commercial tracts will remain the same and if needed shared-access arrangements need to be recorded with the Clay County. The commercial and residential entrances are existing. No other access will be given from Route US 69 to these tracts."





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The Clay County Highway Department gave preliminary and final approval, and has no conflicts or changes with the preliminary or final plats.

The Clay County Health Department has given preliminary and final approval. The Public Water Supply District #1 of Ray County has water availability for water meters for the all lots.

N.W. Electric Power Cooperative advises the **landowners** of restrictions:

*"The easement does not allow buildings constructed or trees planted inside the 100 foot easement. NW requires pre-approval of the altering of ground elevations in the easement area. The developer should advise land purchasers of all restrictions before purchase and notify NW Electric regarding interpretation of these restrictions."*

This note should be added to the plat: Please be advised that NW Electric Power Cooperative, Inc. has a 69,000 volt transmission power line running through Section 23, Township 53, Range 30 of Clay County, MO. NW Electric holds recorded easements on the proposed property for ingress and egress and specific restrictions on a 100 foot strip (50 feet from center on each side of the transmission line).

### Findings

Since this is a replatting of an existing subdivision with only boundary changes and no creation of new lots, no Road Impact Fees (RIF) will be assessed per LDC Section 151-9.13.

The applicant is proposing to install new landscaping along a portion of the west boundary of Lot 2 so as to be in compliance with LDC Section 151-4.14 (2) as listed earlier which requires outdoor storage areas in I-1 districts to be screened from view of any public rights-of-way (i.e. streets) or residentially zoned districts [See Attachment "C"]. Staff recommends extending the landscaping full distance down the west property line of Lot 2 at the time of any new building construction to fully block the view of any potential outdoor storage from Lots 1 and 3.

### Recommendations

It is the recommendation of Staff that the request for **Rezoning** from Agricultural (AG) to Residential Ranchette (R-5) District for ONLY Lot 3 (9.17 acres), Suburban Residential District (R-1A) to Residential Rural District (R-1) for ONLY Lot 1 (11.20 acres) and Agricultural (AG) and Suburban Residential District (R-1A) to Limited Industrial (I-1) District for ONLY Lot 2 (3.50 acres) of proposed **Williams Creek** be **approved**, subject to the petitioner addressing all rezoning standards.

Staff recommends the **Preliminary Plat** of proposed **Williams Creek** be **approved** with the following conditions as shown on Exhibit A:

#### Exhibit A

1. Landscaping be extended the full distance of the west property line of Lot 2 prior to the issuance of any building permits for new construction.
2. The following changes to the recording copies of the final plat:
  - a. C/L of NE 166<sup>th</sup> St marked on plat.
  - b. 15' utility easement (UE) along the north property line (NE 166<sup>th</sup> St) of Lot 2.
  - c. Utility easements (UE's) to be vacated noted as such. On Final Plat UE's shaded gray and Vacated by Document \_\_\_\_\_.
  - d. ADD: location of the principle house on Lot 3.



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- e. ADD: stream setback graphics
- f. ADD: Subtitle "A Replat of Lot 2, Stone Ridge and A Replat of Lot 3B, Replat of Lot 3 Stone Ridge".
- g. ADD: Dedicated 30' ROW on corner of NE 166<sup>th</sup> St and US Highway 69 to CLAY COUNTY, and noted as such.

ADD NOTE: *"Please be advised that NW Electric Power Cooperative, Inc. has a 69,000 volt transmission power line running through Section 23, Township 53, Range 30 of Clay County, MO. NW Electric holds recorded easements on the proposed property for ingress and egress and specific restrictions on a 100 foot strip (50 feet from center on each side of the transmission line)."*

- h. Signature line and such removed for Nancy Lou Rager.



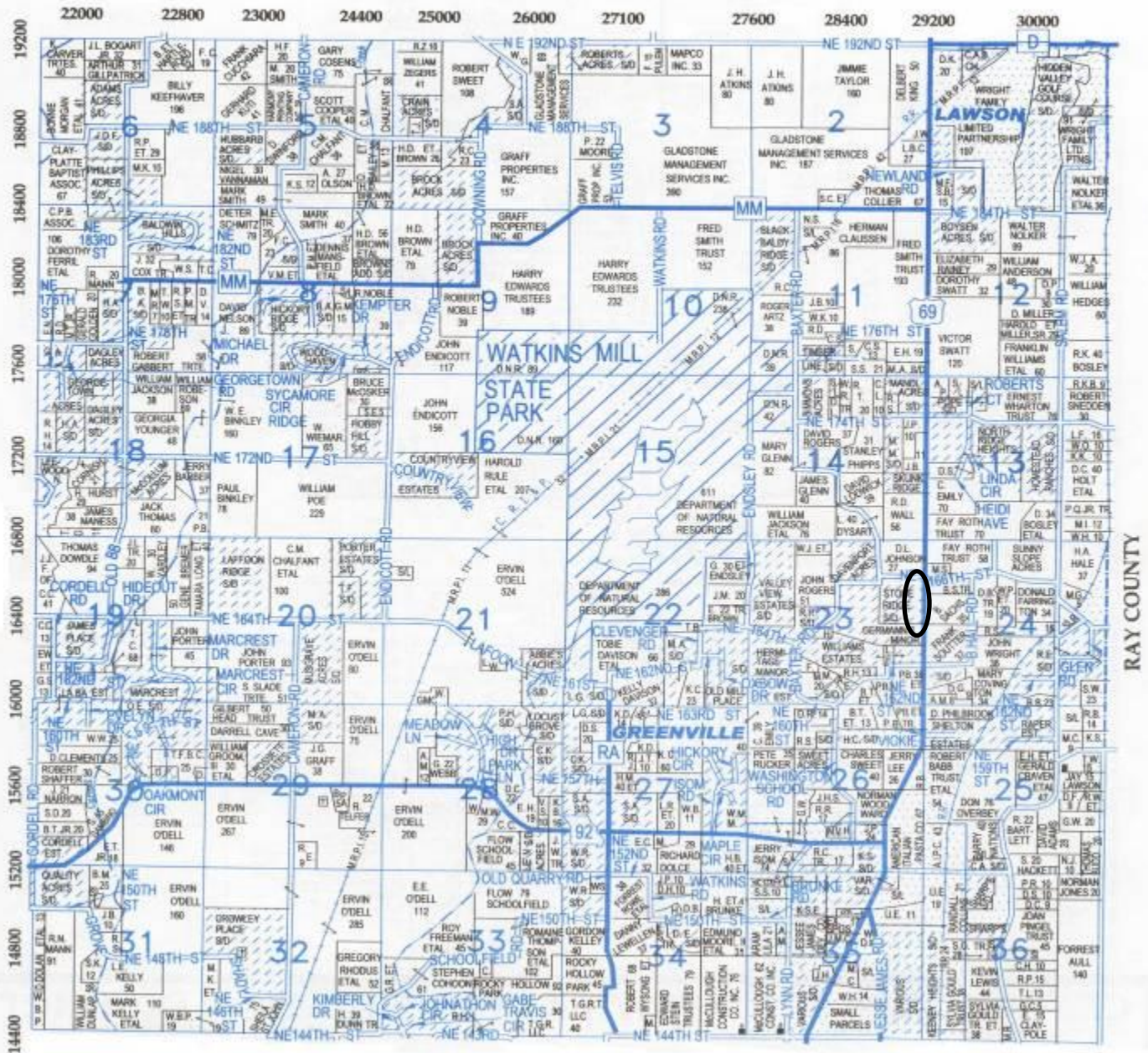
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## Attachments

### Mar 15-105RZ/P – Williams Creek Attachment A - Vicinity Map

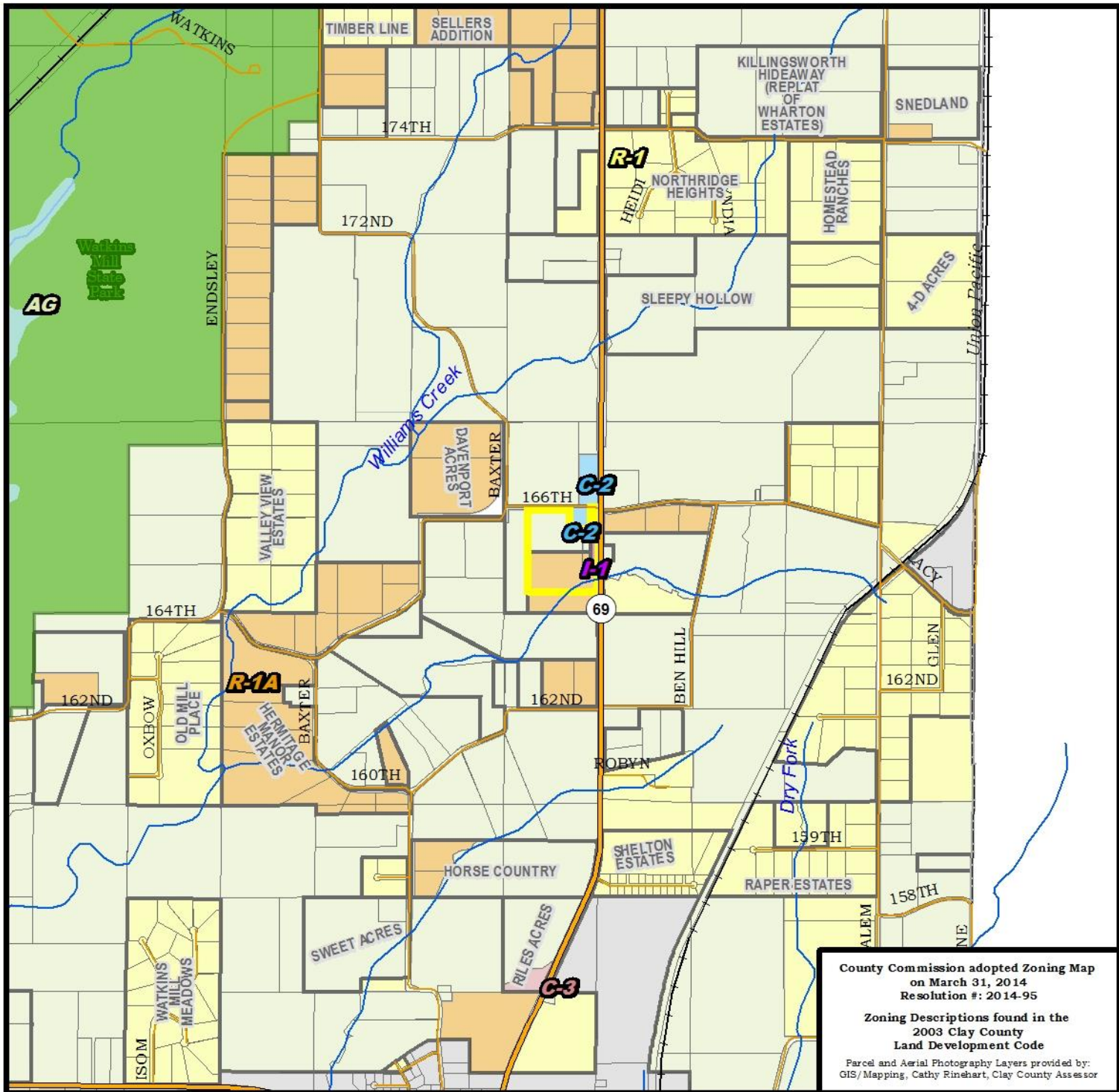
#### TOWNSHIP 53N • RANGE 30W





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## Attachment B - Existing Conditions Map



County Commission adopted Zoning Map  
on March 31, 2014  
Resolution #: 2014-95  
Zoning Descriptions found in the  
2003 Clay County  
Land Development Code  
Parcel and Aerial Photography Layers provided by:  
GIS/Mapping, Cathy Rinehart, Clay County Assessor



Planning & Zoning Department

1 inch = 2,000 feet  
1 inch = 0.38 miles

### LEGEND

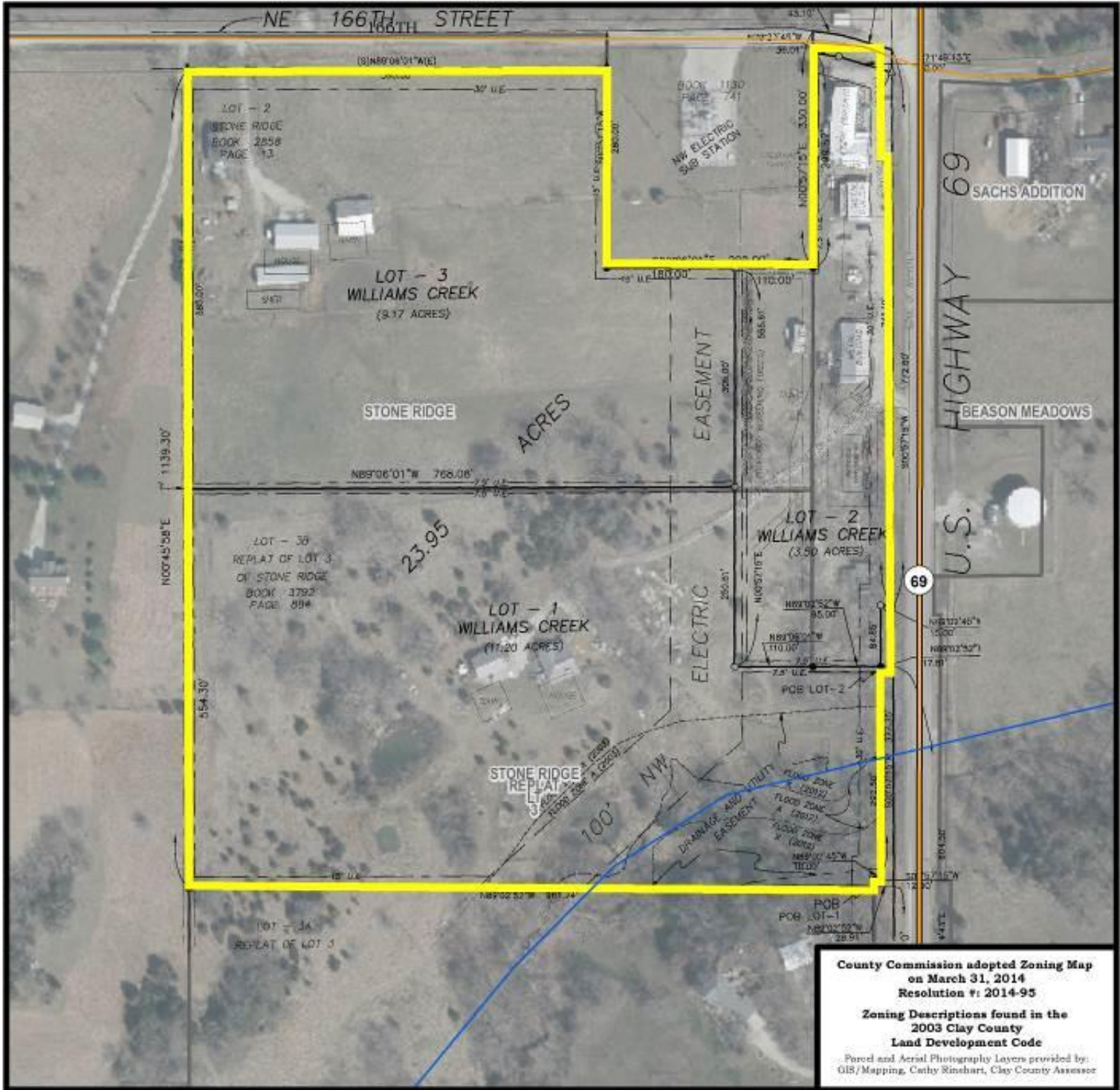
- Property Line
- Streams (EPA)
- Railroads
- Roads
  - Interstates
  - State Highways
  - Local Roads
  - Highway Ramps
- Subdivisions
- City Limits
- Parks
- County Boundaries

- Overlay Districts
  - CD (Conservation District)
  - POD (Preservation Overlay District)
  - PUD (Planned Unit Development)

- Zoning Districts
  - AG
  - R-1
  - R-1A/R-5
  - R-1B/RU
  - R-3
  - C-1
  - C-2
  - C-3
  - I-1
  - I-2
  - OP

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## Attachment C - Site Plan Map



Planning & Zoning Department

1 inch = 200 feet  
1 inch = 0.04 miles

### LEGEND

- Property Line
- ~ Streams (EPA)
- ~ Railroads
- ~ Roads
  - ~ Interstates
  - ~ State Highways
  - ~ Local Roads
  - ~ Highway Ramps
- Subdivisions
- City Limits
- Parks
- County Boundaries